

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.351 of 2001 (O&M)

Date of Decision: 15.10.2019

Poonam and others

..Appellants

Vs.

Ashok Kumar and others

..Respondents

CORAM: HON'BLE MS.JUSTICE RITU BAHRI

Present: Mr.Amit Rana, Advocate for the appellants.

Mr.Mayank, Advocate for respondent No.1.

Mr.Vinod Gupta, Advocate for respondent No.3-Insurance
Company.

RITU BAHRI, J.

Since the liability to make payment of compensation is joint and several of all, at this stage service of respondent No.2 is dispensed with.

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Hisar Camp at Fatehabad (hereinafter referred to as 'the Tribunal') vide award dated 1.4.2000, on account of death of Sanjay in a motor vehicular accident which took place on 14.9.1998. Appellant No.1 is the widow of deceased Sanjay, appellants No.2 and 3 are minor daughters and appellant No.4 is the mother of the deceased Sanjay.

FACTS NOT IN DISPUTE

Brief facts of the case are that Sanjay had died in a road

accident which took place on 14.9.1998. He was travelling from Fatehabad

to Delhi in his Maruti Car No.HR-22/-0124 alongwith Dalbir, Manmohan and Darshan Kumar. At about 8 p.m. when car reached near village Chhoti Bahu, Tehsil and District Rohtak, a truck bearing registration No.HR-46/9499 came from the side of Rohtak being driven rashly and negligently and hit into the Maruti car, as a result of which Sanjay and others suffered injuries. All the injured including Sanjay were shifted to Medical College and Hospital Rohtak and after operation, Sanjay was declared dead. With regard to the alleged accident, an FIR was registered against the respondents. Consequently, claimant-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident occurred on account of rash and negligent driving of offending truck by respondent No.2 owned by respondent No.1. This finding was rightly given on the basis of FIR (Ex.P1) and deposition of PW3 Dalbir Singh who was eye witness of the accident.

The deceased was 31 years of age and being a self employed person was earning ₹25,000/- per month. The Tribunal had assessed his notional income as ₹5000/- per month. The dependency was taken at ₹3300/- per month and after applying multiplier of 16, annual dependency of claimants came to be ₹3300x12x16= ₹6,33,600/-, ₹5000/- towards loss of consortium and ₹2000/- for funeral expenses were also awarded. Hence, the claimants were found entitled to total compensation of ₹6,40,600/- alongwith interest @ 12% per annum from the date of filing of petition till realization. Feeling dissatisfied with the impugned award, the claimant-

appellants have preferred the present appeal.

I have heard learned counsel for the parties and perused the case file.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments passed by Hon'ble the Supreme Court in *Magma General Insurance Company Ltd. Versus Nanu Ram alias Chuhru Ram and others, Civil Appeal No.9581 of 2018* and *National Insurance Company Limited Vs. Pranay Sethi and others, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017)* as under:

<i>Sr.No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Income	Rs.5000x12=60,000/-per annum
(ii)	40% of (i) above to be added as future prospects	Rs.60,000+24,000=84,000/-
(iii)	1/3 rd of (ii) is deducted as personal expenses	Rs.84,000-28,000= Rs.56,000/-
(iv)	After applying multiplier of 16	Rs.56,000x16= Rs.8,96,000/-
(v)	Funeral expenses	Rs.15,000/-
(vi)	Loss of estate	Rs.15,000/-
(vii)	Loss of Filial Consortium	Rs.1,60,000/- (Rs.40,000/- each to appellants No.1 to 4)
(viii)	Total Compensation awarded	Rs.10,86,000/-
(ix)	Enhanced amount of compensation	Rs.10,86,000-6,40,600= Rs.4,45,400/-

The enhanced amount of compensation of ₹4,45,400/- shall be payable within a period of two months from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing the claim petition, till its

realisation, in view of the judgment of Hon'ble the Supreme Court in the case of ***Dara Singh @ Dhara Banjara Versus Shyam Singh Varma and others, Civil Appeal No.4528 of 2019***. Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is allowed.

15.10.2019
Meenu

(Ritu Bahri)
Judge

Whether speaking/reasoned	- Yes/No
Whether Reportable	- Yes/No